



IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Cynthia Donovan et. al.

SERIAL NO: 09/578,672

FILING DATE: 5/25/2000

TITLE: METHOD AND APPARATUS FOR CONTROLLING ACCESS TO A WEBSITE

GROUP ART UNIT: 2145

ATTY DOCKET NO: 1112

EXAMINER Mirza, Adnan

CERTIFICATION OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313 on the date shown below:

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Nam Kim

THE HONORABLE COMMISSIONER OF PATENTS, ALEXANDRIA, VA 22313

APPEAL BRIEF UNDER 37 C.F.R 1.192

SIR:

In support of the appeal of the above-referenced case:

Adjustment date: 12/08/2008 TLUU11
02/11/2008 SSANDARA 00000000 09578672
01 FC:1402 -510.00 OP

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02/11/2008 SSANDARA 00000000 09578672
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12/08/2008 TLUU11 00000001 09578672

01 FC:1402

540.00 OP

1. Real Party in Interest.

The real party in interest is Charles Schwab & Co.,
Inc.

2. Related Appeals and Interferences.

5 Prosecution was reopened following receipt of
Applicants' prior appeal brief. Prosecution has been
reopened a second time. There are no other related appeals
and interferences.

3. Status of Claims.

10 All claims are rejected. Claims 1, 14, and 27 are
being appealed after prosecution was reopened and an office
action was issued following receipt of Applicants' two
prior appeal briefs. Claims 1 and 14 stand or fall
together. Claim 27 stands on its own.

15 4. Status of Amendments.

Amendments A-E were filed and entered in the
application.

5. Summary of Claimed Subject Matter.

Claim 1 recites, "A method of processing a first
20 request for web page, comprising:"

"receiving the first request for the web page; and"
(page 39, line 18)

"transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp."
(page 41, lines 3-11)

5 Claim 14 recites, "A computer program product comprising a computer useable medium having computer readable program code embodied therein" (page 9, lines 2-4) "for processing a first request for web page, the computer program product comprising:"

10 "computer readable program code devices" (page 9, lines 2-4) "configured to cause a computer to receive the first request for the web page; and" (page 39, line 18)

 "computer readable program code devices" (page 9, lines 2-4) "configured to cause a computer to transmit, to
15 a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp." (page 41, lines 3-11)

 Claim 27 recites, "An apparatus for processing a first request for a web page, the apparatus comprising:"

20 "a user request router having an input coupled to an apparatus input operatively coupled for receiving the first request," (page 15, lines 16-18; page 16, lines 6-8) "the user request router for providing at an output a signal

responsive to the first request received at the user request router input; and" (page 20, lines 15-16)

"a cookie/applet generator having an input coupled to the user request router output for receiving the signal,"

5 (page 20, lines 15-16) "the cookie/applet generator for providing, to a device from which the first request was received, via a first output coupled to an apparatus output, a first indicator of at least one time to send a second request for the web page." (page 20, lines 16-23; 10 page 18, lines 1-12)

6. Grounds of Rejection to be Reviewed on Appeal.

Examiner rejects claims 1, 14, and 27 under 35 U.S.C. 103(a) as being unpatentable over Christensen (U.S. Patent 6,330,605) and Guenthner (U.S. Patent 6,230,196).

15 7. Argument.

A. Claims 1 and 14 Are Patentably Distinguishable Over Christensen and Guenthner Because Christensen and Guenthner Do Not Teach or Suggest All the Claim Limitations, Either Alone or In Combination.

20 Claim 1 recites, "receiving the first request for the web page; and transmitting, to a device from which the first request was received, at least one command to send a second request for the web page".

Claim 14 recites, "computer readable program code devices configured to cause a computer to receive the first request for the web page; and computer readable program code devices configured to cause a computer to transmit, to a device from which the first request was received, at least one command to send a second request for the web page".

After reopening prosecution after receiving Applicants' first appeal brief, Examiner asserted in reply "However Christensen did not go into details of transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp". Applicants didn't see anything in the most recent office action that stated that Christensen described these features generally, so we interpret this to mean Christensen doesn't show this claimed feature at all.

Examiner then pointed to a reference, Guenthner that did not send to a device that sent a request for the web page a command to send a second request for the same web page.

Examiner has now reopened prosecution again, and this time using a different reference that again fails to show the above feature.

Examiner has failed to show that the claimed features
5 are known or were, at the time the invention was made,
obvious to one skilled in the art, as required by the
"Examination Guidelines for Determining Obviousness Under
35 U.S.C. 103 In View of the Supreme Court Decision in KSR
International Co. v. Teleflex, Inc." (72 Fed. Reg. 57526);
10 KSR International Co. v. Teleflex Inc., 127 S.Ct. 1727, 550
U.S. ____ (2007).

Examiner doesn't even attempt to show the claimed
feature in the official actions being provided. Paragraph
2 on page 3 of the most recent official action doesn't even
15 raise the claimed features. Examiner has reopened
prosecution, twice, and yet has never shown the claimed
feature in any reference, nor shown that such a feature was
suggested anywhere. The claimed feature is distinguishable
over any cited reference. Applicants respectfully submit
20 that after this many tries, it is time to allow the claim.

2. Claim 27 Is Patentably Distinguishable Over
Christensen and Guenthner Because Christensen and Guenthner
Do Not Show the Claim Feature of a Cookie/Applet Generator

for Providing, to a Device from Which the First Request was Received, a First Indicator of at Least One Time to Send a Second Request for the Web Page.

Claim 27 recites, "a user request router having an
5 input coupled to an apparatus input operatively coupled for receiving the first request, the user request router for providing at an output a signal responsive to the first request received at the user request router input; and

a cookie/applet generator having an input coupled to
10 the user request router output for receiving the signal, the cookie/applet generator for providing, to a device from which the first request was received, via a first output coupled to an apparatus output, a first indicator of at least one time to send a second request for the web page"

15 Here again, after reopening prosecution, twice, Examiner's reference doesn't even hint at the claimed feature. Examiner points to Christensen, column 4, lines 43-56, but there is no structure that provides an indicator of at least one time to send a second request for a web
20 page as claimed.

Again, Examiner has not shown that all of the claimed features were known in the cited references, or shown a suggestion in one reference to modify a different reference

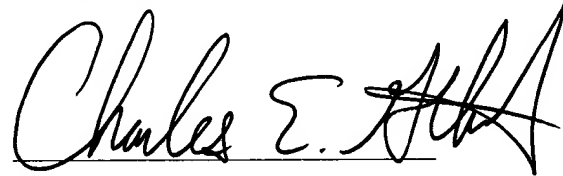
that would produce the claimed feature, as required by the
"Examination Guidelines for Determining Obviousness Under
35 U.S.C. 103 In View of the Supreme Court Decision in KSR
International Co. v. Teleflex, Inc." (72 Fed. Reg. 57526);
5 KSR International Co. v. Teleflex Inc., 127 S.Ct. 1727, 550
U.S. ____ (2007). Thus, claim 27 is not obvious, and claim
27 should be allowed.

Conclusion

Claims 1, 14, and 27 are patentably distinguishable
10 over the cited references. Favorable action is solicited.

Respectfully Submitted

December 3, 2008.

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8. Claims Appendix.

1. A method of processing a first request for web page, comprising:

receiving the first request for the web page; and

transmitting, to a device from which the first request
5 was received, at least one command to send a second request for the web page, and a first timestamp.

14. A computer program product comprising a computer useable medium having computer readable program code embodied therein for processing a first request for web page, the computer program product comprising:

5 computer readable program code devices configured to cause a computer to receive the first request for the web page; and

computer readable program code devices configured to cause a computer to transmit, to a device from which the
10 first request was received, at least one command to send a second request for the web page, and a first timestamp.

27. An apparatus for processing a first request for a web page, the apparatus comprising:

a user request router having an input coupled to an apparatus input operatively coupled for receiving the first

5 request, the user request router for providing at an output
a signal responsive to the first request received at the
user request router input; and

a cookie/applet generator having an input coupled to
the user request router output for receiving the signal,
10 the cookie/applet generator for providing, to a device from
which the first request was received, via a first output
coupled to an apparatus output, a first indicator of at
least one time to send a second request for the web page.

9. Evidence Appendix.

15 No evidence appendix is being submitted.

10. Related Proceedings Appendix.

Both appeals in this case were interrupted by reopened prosecution, and therefore Applicants are not submitting a related proceedings appendix.